

**DURHAM, NORTH CAROLINA
MONDAY, OCTOBER 19, 1998
7:30 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chamber at City Hall with the following members present: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Absent: Council Member Brown.

Also present: City Manager P. Lamont Ewell, City Attorney Henry Blinder, City Clerk Margaret M. Bowers and Deputy City Clerk D. Ann Gray.

Mayor Tennyson called the meeting to order and at this time, the Mayor read a "Resolution Memorializing Terry Sanford." Mayor Pro Tempore Clement acknowledged the award received by the Durham Police Department regarding Durham Public Housing. Council Member Cox announced that his October Community Meeting would be held at I. R. Holmes Recreation Center on Thursday, October 22, 1998.

The Mayor asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Ewell requested that the Tidewater Contract be referred to the Public Works Committee.

SUBJECT: TIDEWATER CONTRACT - RECYCLING SERVICES

MOTION by Mayor Pro Tempore Clement seconded by Council Member Larson to refer the Tidewater Contract to the Public Works Committee was approved at 7:43 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Brown.

City Clerk Bowers informed the council of invalid protest petitions filed against GBA #2 [Rezoning Case P98-14, Boulevard Properties Limited Partnership].

There were no priority item(s) from the City Attorney.

The Mayor asked if any council member(s) or citizen(s) wanted to pull any item(s) from the Consent Agenda for discussion later in the meeting. **[No items were pulled from the Consent Agenda]**

MOTION by Council Member Miller seconded by Council Member Larson to approve the Consent Agenda as printed was approved at 7:46 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Brown.

[CONSENT AGENDA]

SUBJECT: USE OF CONTROLLED SUBSTANCE ABUSE FUNDS FOR THE PURCHASE OF EQUIPMENT AND TECHNOLOGY FOR USE IN POLICE OPERATIONS

MOTION by Council Member Miller seconded by Council Member Larson to authorize the use of Controlled Substance Abuse Funds in an amount up to \$136,200 to purchase items requested (list of items shown in attachment) to enhance daily police operations was approved at 7:46 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Brown.

SUBJECT: FINAL APPROVAL - CALVARY MINISTRIES OF THE WESTEND, INC., COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) SUBRECIPIENT AGREEMENT

MOTION by Council Member Miller seconded by Council Member Larson to authorize the City Manager to execute a Subrecipient Agreement with Calvary Ministries of the Westend, Inc. in an amount not to exceed \$28,000 from CDBG funds and to execute related documents, and make minor changes to the Grant Agreement and other related documents as are consistent with CDBG requirements as published by the Department of Housing and Urban Development (HUD); and

To determine and find that funds for this project are not otherwise available, wholly or in part from public or private lenders, upon equivalent or reasonably equivalent terms and conditions was approved at 7:46 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Brown.

SUBJECT: AMENDMENTS TO THE COMPENSATION AND CLASSIFICATION PLAN

MOTION by Council Member Miller seconded by Council Member Larson to amend the City of Durham Compensation and Classification Plan adopted July 6, 1996, as amended, to include recommended adjustments as listed in the attachment was approved at 7:46 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Brown.

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SUBJECT: FINANCE OFFICER DESIGNATION, AUTHORIZED SIGNATURES OF A DEPOSITORY, AND DESIGNATION OF DEPUTY FINANCE OFFICER

MOTION by Council Member Miller seconded by Council Member Larson to adopt a "Resolution Designating Finance Officer"--Navdeep S. Gill;

To adopt a "Resolution Designating Signatures of Individuals to be Honored by Depositories of the City of Durham"--P. Lamont Ewell and Navdeep S. Gill; and

To adopt a "Resolution Designating Deputy Finance Officer"--Wanda S. Page was approved at 7:46 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Brown.

**Resolution #8501
Resolution #8502
Resolution #8503**

SUBJECT: CONTRACT FOR TRANSPORTATION SERVICES WITH THE COUNTY OF DURHAM

MOTION by Council Member Miller seconded by Council Member Larson to approve the attached "Contract for Transportation Services" with the County of Durham and to authorize the City Manager to execute the contract was approved at 7:46 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Brown.

SUBJECT: PROPOSED EXTENSION OF RECIPROCAL LEASE AGREEMENTS BETWEEN THE CITY OF DURHAM AND RALEIGH-DURHAM MSA LIMITED PARTNERSHIP

MOTION by Council Member Miller seconded by Council Member Larson to approve amendments to the reciprocal lease agreements between the City of Durham and Raleigh-Durham MSA Limited Partnership, extending the lease agreements for five years; and, to authorize the City Manager to execute the amendments was approved at 7:46 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller.

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Noes: None. Absent: Council Member Brown.

SUBJECT: FISCAL YEAR 1998-99 BUDGET ORDINANCE AMENDMENT #2

MOTION by Council Member Miller seconded by Council Member Larson to adopt "An Ordinance Amending the 1998-99 City of Durham Budget Ordinance, as Amended, the Same Being Ordinance #11475" was approved at 7:46 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Brown.

Ordinance #11585

SUBJECT: SECOND TOWER PROJECT

MOTION by Council Member Miller seconded by Council Member Larson to receive additional information from the Administration concerning the Second Tower Project was approved at 7:46 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Brown.

SUBJECT: DURHAM BOARD OF ADJUSTMENT APPOINTMENT

MOTION by Council Member Miller seconded by Council Member Larson to appoint Katherine Fulkerson as an **Alternate Member** on the Durham Board of Adjustment, for a term to expire June 30, 2000 was approved at 7:46 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Brown.

SUBJECT: SITE PLAN APPROVAL - HOLIDAY INN EXPRESS

MOTION by Council Member Miller seconded by Council Member Larson to approve a site plan for Holiday Inn Express, submitted by Innkeeper Properties, Inc., consisting of a 37,675 square foot hotel building proposed on 1.4 acres, zoned General Commercial and located south of Interstate 85, and east of Guess Road (Tax Map #285-1-2,3) was approved at 7:46 p.m. by the following vote:

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Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Brown.

SUBJECT: STREET CLOSING (SC98-4) - SLATER ROAD

MOTION by Council Member Miller seconded by Council Member Larson to adopt a resolution 1) declaring the intent of the City Council to consider permanently closing a 2.3± acre portion of Slater Road from NC Highway 54 east 1,676± linear feet and 2) setting a public hearing on Monday, November 2, 1998 to consider closing a 2.3± acre portion of Slater Road from NC Highway 54 east 1,676± linear feet was approved at 7:46 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Brown.

Resolution #8504

SUBJECT: EASTWAY NEIGHBORHOOD DRAINAGE PROJECT - HUSKY CONSTRUCTION CORPORATION

MOTION by Council Member Miller seconded by Council Member Larson to authorize the City Manager to execute a contract with Husky Construction Corporation for the Eastway Neighborhood Drainage Project; and

To authorize the expenditure of \$85,000 from the Community Development Block Grant Account was approved at 7:46 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Brown.

SUBJECT: CITY HALL REPAIRS CONTRACT - WESTERN WATERPROOFING

MOTION by Council Member Miller seconded by Council Member Larson to authorize the City Manager to execute a contract with Western Waterproofing in the amount of \$627,478 to correct the exterior wall weather proofing flashing for City Hall was approved at 7:46 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller.

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Noes: None. Absent: Council Member Brown.

SUBJECT: NINTH STREET - ESTABLISHMENT OF THREE-HOUR PARKING

MOTION by Council Member Miller seconded by Council Member Larson to adopt the following ordinances was approved at 7:46 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Brown.

- a. An ordinance to repeal Ordinance #7919, adopted October 2, 1989, which established two-hour parking between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday, except holidays
 - 1) on the east side of Ninth Street in the area beginning at the north curb line of Perry Street, if extended, and extending for a distance of 338 feet northwardly; and
 - 2) on the east side of Ninth Street in the area beginning at a point 365 feet north of the north curb line of Perry Street, if extended, and extending for a distance of 381 feet northwardly.

Ordinance #11586

- b. An ordinance to repeal Ordinance #7705, adopted January 17, 1989, which established two-hour parking between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday, except holidays
 - 1) on the west side of Ninth Street in the area beginning at a point 131 feet south of the south curb line of Hillsborough Road, if extended, and extending for a distance of 216 feet southwardly; and
 - 2) on the west side of Ninth Street in the area beginning at a point 38 feet south of the south curb line of Stack Street, if extended, and extending for a distance of 256 feet southwardly.

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- c. **MOTION** by Council Member Miller seconded by Council Member Larson to adopt an ordinance to establish three-hour parking between the hours of 7:00 a.m. and 6:00 p.m., Monday through

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Friday, except holidays, at the following locations was approved at 7:46 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Brown.

- 1) on the east side of Ninth Street in the area beginning at the north curb line of Perry Street, if extended, and extending for a distance of 338 feet northwardly;
- 2) on the east side of Ninth Street in the area beginning at a point 365 feet north of the north curb line of Perry Street, if extended, and extending for a distance of 381 feet northwardly;
- 3) on the west side of Ninth Street in the area beginning at a point 131 feet south of the south curb line of Hillsborough Road, if extended, and extending for a distance of 216 feet southwardly; and
- 4) on the west side of Ninth Street in the area beginning at a point 38 feet south of the south curb line of Stack Street, if extended, and extending for a distance of 256 feet southwardly.

Ordinance #11588

SUBJECT: DRIVER AVENUE - REMOVAL OF LOADING AND UNLOADING ZONE

MOTION by Council Member Miller seconded by Council Member Larson to adopt an ordinance to repeal Ordinance #3067, adopted April 6, 1970, establishing a loading and unloading zone on the west side of Driver Avenue in the area beginning at a point 25 feet north of the north curb line of Peabody Street, if extended, and extending from that point northwardly for a distance of 140 feet (between the hours of 7:00 a.m. and 6:00 p.m.) was approved at 7:46 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Brown.

Ordinance #11589

SUBJECT: FERNWAY STREET - LOADING AND UNLOADING ZONE

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MOTION by Council Member Miller seconded by Council Member Larson to adopt an ordinance to establish a loading and unloading zone between the hours of 7:00 a.m. and 6:00 p.m. on Fernway Street beginning at a point 30 feet east of the east curb line of Liggett Street, if extended, and extending for a distance of 30 feet eastwardly was approved at 7:46 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Brown.

Ordinance #11590

SUBJECT: FOUR-WAY STOP - CHAPEL HILL ROAD

- a. **MOTION** by Council Member Miller seconded by Council Member Larson to adopt an ordinance to rescind:
 - 1) that portion of Ordinance #2077, adopted July 16, 1962, which authorized the installation of a stop sign on Maplewood Drive at Morehead Avenue, northwest corner;
 - 2) Ordinance #4885, adopted April 3, 1978, which authorized the installation of a stop sign on Chapel Hill Road at Morehead Avenue, southeast corner; and
- b. To adopt an ordinance authorizing the installation of a four-way stop at the intersection of Chapel Hill Road and Morehead Avenue was approved at 7:46 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Brown.

Ordinance #11591

Ordinance #11592

SUBJECT: STREET ACCEPTANCE - MILLSTONE DRIVE AND COLTON COURT

MOTION by Council Member Miller seconded by Council Member Larson to accept the following streets for maintenance by the City of Durham was approved at 7:46 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Brown.

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- a. Millstone Drive - from the west ditch line of Grandale Drive southward through the cul-de-sac (1,024'), and
- b. Colton Court - from the centerline of Millstone Drive eastward through the cul-de-sac (340')

[GENERAL BUSINESS AGENDA]

[PUBLIC HEARINGS]

SUBJECT: ZONING MATTER CASE P97-67, S & R PARTNERSHIP, 4706 HOPE VALLEY ROAD

Case: P97-67 (Continued from the April 20, 1998 City Council Meeting--see attached letter dated September 21, 1998 requesting withdrawal of Case P97-67)

Applicant: S & R Partnership

Location: The 9.976-acre site, located at 4706 Hope Valley Road (NC-751), consists of three parcels, one fronting on Garrett Road. These lots are identified as Tax Map 426, Block 1, Lots 7, 16, and 17.

Request: Rezoning from R-10 (Residential-10 District) and PDR (Planned Density Residential District) to RM-12(D) (Multi-family Residential District at 12 units per acre); F/J-B Overlay

Zoning Committee's Recommendation and Vote: Approval (7-0)

City Manager's Recommendation: Approval, subject to changes to the Development Plan

MOTION by Council Member Larson seconded by Council Member Miller to accept the applicant's request for withdrawal of Zoning Case P97-67 was approved at 7:46 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Brown.

SUBJECT: ZONING CASE P98-14, BOULEVARD PROPERTIES LIMITED PARTNERSHIP, INTERSECTION OF US 15-501 AND MT. MORIAH ROAD

Case: P98-14

Applicant: Boulevard Properties Limited Partnership

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Location: The 169.48-acre site consists of 24 parcels located southeast of the intersection of US 15-501 and Mt. Moriah Road, identified as Tax Map 471-1-4; Tax Map 474-1-3 and 5; Tax Map 483-1-1 partial, 1A partial; 9B partial, 24, 25A, 26, 33, 34, 40, 42 through 52; and Tax Map 483A-1-1

Request: Rezoning from R-20 (Residential 20 District) and SC(D) (Shopping Center District with a Development Plan); MTC (Major Transportation Corridor) partial to MU(D) (Mixed Use District with a Development Plan); MTC partial.

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-20 and SC(D); MTC and placing same in and establishing same as MU(D); MTC.

Zoning Committee's Recommendation and Vote: Approval (7-0)

City Manager's Recommendation: Approval

Note: Insufficient protest petitions filed against this rezoning matter.

Dick Hails, of the City/County Planning Department, briefed council on the additions to the development plan regarding Patterson Place [see Memo from Paul Norby dated October 19, 1998].

He noted it was the staff's understanding that the applicant has agreed to all staff recommendations with the exception of the following two issues:

1. Widening the curves shown on the section of Patterson Boulevard east of Witherspoon Drive to a 120 foot radius; and
2. Providing 12 foot wide lanes (vs. 11 feet preferred by the applicant) along the two roadway segments that will serve as the Circulator Road through this area, along the western portion of Patterson and all of Witherspoon.

Mr. Hail stated the staff recommended approval of the project including the two issues listed above. As a reminder, Mr. Hail stated the council cannot unilaterally impose conditions on the development plan for approval, but can only do so with the agreement of the petitioner.

Council Member Larson asked the administration if it was their position that the two issues not agreed upon needed to be a part of this document.

Dick Hails stated the staff would like to see the two issues added to the development plan for the project.

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Council Member Larson asked if the two issues could be resolved at the site plan stage.

Dick Hails stated because of the view of the city staff and the applicant on standards which have come up through the rezoning process with some disagreements it would be helpful to clarify the issues at this stage to avoid further disagreement which may arise.

City Attorney Blinder noted the council could not add the two requirements unless the applicant agreed to them. He noted the option available to council would be to approve the rezoning without the two recommendations from staff or to vote down the rezoning.

Council Member Jacobs asked the administration what would be the hazard in providing 11 feet wide lanes as preferred by the applicant vs. 12 feet as recommended by the staff.

Earl Lewellyn, of the Transportation Department, stated the reasons 12 foot lanes are being recommended: 1) wider lanes provide greater capacity - less friction with adjacent fixed objects or vehicles; 2) wider lanes are needed specifically on the portion of Patterson Drive and Witherspoon Drive [these roadways are acting as the Circulator Road as described in the 15-501 Corridor Plan].

Council Member Cox raised concern with the Level of Service. Mr. Cox noted the transportation improvements were very important and high priority. Mr. Cox asked the administration what assurances were in place to make sure these transportation improvements were acted upon.

Earl Lewellyn stated if the plan was approved the developer would have to follow-up subsequently with site plans for the individual phases of development and staff will review those specific phases and determine what improvements should correspond at the site plan level to make sure the traffic is mitigated. Also, Mr. Lewellyn stated there could further be a more comprehensive look at phasing upfront.

In terms of the phasing upfront relative to the transportation improvements, Council Member Cox stated he would like the administration to review that because in order for this proposal to work successfully, it is important that the recommended transportation improvements be made.

For clarification, the Mayor reminded Council Member Cox that

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information was received from the administration this evening addressing his concerns [see addendum #2 to staff report, specifically in reference to Exhibit 27 - Transportation Improvements].

With the exception of widening the curves shown on the section of Patterson Boulevard east of Witherspoon Drive to a 120 foot radius and providing 12 foot wide lanes along the two roadway segments that will serve as the Circulator Road, it was noted by the administration that all other concerns have been addressed by inclusion on Exhibit 27 or otherwise have been worked out between the staff and the applicant.

Due to the relationship between Zoning Case 98-14 and the following two Zoning Cases [P98-15 and P98-13], the Mayor opened the public hearing on all three rezonings.

Proponents

Attorney Jack Markham spoke in support of Patterson Place. He noted the project was an excellent proposal and urged council support.

Mike Waldroup, the applicant, addressed council presenting information on why he preferred 11 foot wide lanes along the two roadway segments that will serve as the Circulator Road instead of 12 foot lanes as recommended by the staff. Mr. Waldroup also submitted information relative to having a 90 foot turn radius rather than a 120 foot turn radius recommended by staff. He noted he would like to meet with Transportation and DATA personnel looking at the principal users of this segment of the road system.

Mr. Waldroup stated there were ways of determining what it takes to get vehicles through a particular area and asked the council to endorse a process relative to the turn radius without necessarily pulling a single number out the table but working with Emergency Services and DATA.

Opponents

Attorney Mike Brough, representing Watkins Road Partnership & New Hope Creek Partnership, presented information showing properties that his clients owned. Attorney Brough noted his clients were not opposing the project; however, they were concerned with the impact on their property relative to the acquisition of land for Laurel Hill Drive. He stated they were told at the Planning Committee there would be an approach made to his clients; an appraisal would be made of the property in question and if they were not able successfully to work out some negotiated arrangement between the developer and his clients, the city would simply step

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in and condemn the property. Attorney Brough stated at the time that Watkins Road relocation is sort to be acquired either by the developer or condemnation, the city will be buying both pieces of property.

E. C. Ballard, a resident of Watkins Road, stated the 2020 Plan was not followed regarding this rezoning matter. He noted the traffic problems already in existence and he was opposed to any widening of the road in front of his home. Also, Mr. Ballard stated more publicity should have been provided for residents relative to this request.

Rebuttal

Mike Waldroup, the applicant, stated he was not proposing any widening of the road as stated by Mr. Ballard. Mr. Waldroup also addressed the issue of Laurel Hill Drive.

Mark Ahrendsen, of the Transportation Department, briefed council on the history of Laurel Hill Drive.

Council Member McKissick asked the applicant if he was willing to accept the staff recommendations regarding the 120 foot turn radius and 12 foot wide lanes as a part of his plan.

Mike Waldroup stated he would accept the staff recommendation of 12 foot wide lanes reluctantly. With regard to the 120 foot turn radius, he noted there was information available to determine what it takes to move transit through the area. Mr. Waldroup stated he would like to have an opportunity to try and work out a solution with staff regarding the turn radius.

Council Member McKissick asked the staff for their thoughts on Mr. Waldroup comments having flexibility with the 120 foot radius. Mr. McKissick asked if this issue could be resolved at the site plan stage.

Earl Lewellyn, of the Transportation Department, stated they would be willing to look at the details at the site plan stage to see how the design could be revised and still maintain acceptable design _____. Mr. Lewellyn noted they would want to have input from personnel of the Fire Department and DATA, along with the applicant.

Mayor Tennyson closed the public hearing.

A motion was made by Council Member McKissick to approve the rezoning request with changes to the development plan as indicated in the staff report; including the following 1) 12 foot wide lanes

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along the two roadway segments that will serve as the Circulator Road through this area, along the western portion of Patterson and all of Witherspoon; and 2) the curve radius to be resolved at the site plan stage. This motion was seconded by Council Member Miller.

A substitute motion was made by Council Member Blyth to approve the rezoning request with changes to the development plan as indicated in the staff report deleting the following two recommendations: 1) widening the curves shown on the section of Patterson Boulevard east of Witherspoon Drive to a 120 foot radius; and 2) providing 12 foot wide lanes along the two roadway segments that will serve as the Circulator Road through this area. This motion was seconded by Council Member Engelhard.

At this time, City/County Planning Director Paul Norby provided the following language regarding the turn radius: the curve at the section of Patterson Boulevard east of Witherspoon Drive be designed with a radius sufficient to allow for adequate and safe movement for transit and emergency vehicles while at the same time promoting ease of pedestrian movement.

Mr. Waldroup, the applicant, noted he was in agreement with the language provided by Mr. Norby.

Council Member Blyth revised her motion to read as follows:

A substitute motion was made by Council Member Blyth to approve the rezoning request with changes to the development plan as indicated in the staff report; including the following 1) the curve at the section of Patterson Boulevard east of Witherspoon Drive be designed with a radius sufficient to allow for adequate and safe movement for transit and emergency vehicles while at the same time promoting ease of pedestrian movement; and 2) providing 11 foot wide lanes along the two roadway segments that will serve as the Circulator Road through this area. This motion was seconded by Council Member Engelhard.

SUBSTITUTE MOTION TO THE SUBSTITUTE by Council Member Cox seconded by Council Member McKissick to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of SC(D); MTC and placing same in and establishing same as OI-2; MTC with changes to the development plan as indicated in the staff report; including the following 1) the curve at the section of Patterson Boulevard east of Witherspoon Drive be designed with a radius sufficient to allow for adequate and safe movement for transit and emergency vehicles while at the same time promoting ease of pedestrian

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movement; and 2) providing 12 foot wide lanes along the two roadway segments that will serve at the Circulator Road through this area, along the west portion of Patterson and all of Witherspoon **FAILED** at 9:50 p.m. by the following vote: Ayes: Mayor Tennyson and Council Members Burnette, Cox, Jacobs, Langley and McKissick. Noes: Mayor Pro Tempore Clement and Council Members Larson, Miller, Griffin, Engelhard and Blyth. Absent: Council Member Brown.

SUBSTITUTE MOTION by Council Member Blyth seconded by Council Member Engelhard to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of SC(D); MTC and placing same in and establishing same as OI-2; MTC with changes to the development plan as indicated in the staff report; including the following 1) the curve at the section of Patterson Boulevard east of Witherspoon Drive be designed with a radius sufficient to allow for adequate and safe movement for transit and emergency vehicles while at the same time promoting ease of pedestrian movement; and 2) providing 11 foot wide lanes along the two roadway segments that will serve as the Circulator Road through this area, along the western portion of Patterson and all of Witherspoon was approved at 9:50 p.m. by the following vote: Ayes: Mayor Tennyson and Council Members Blyth, Burnette, Engelhard, Griffin, Jacobs, Larson, McKissick and Miller. Noes: Mayor Pro Tempore Clement and Council Members Cox and Langley. Absent: Council Member Brown.

SUBJECT: ZONING CASE P98-15, BOULEVARD PROPERTIES LIMITED PARTNERSHIP, 3701 NEW MT. MORIAH ROAD

Case: P98-15

Applicant: Boulevard Properties Limited Partnership

Location: The 1.297-acre site is located at 3701 New Mt. Moriah Road, identified as Tax Map 483, Block 1, Lot 1 (partial)

Request: Rezoning from SC(D) (Shopping Center District with a Development Plan); MTC (Major Transportation Corridor) to OI-2 (General Office and Institutional); MTC.

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of SC(D); MTC and placing same in and establishing same as OI-2; MTC.

Zoning Committee's Recommendation and Vote: Approval (7-0)

City Manager's Recommendation: Approval

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Note: For public hearing comments, please refer to Zoning Case P98-14.

A motion was made by Council Member McKissick to approve the rezoning with changes to the development plan as indicated in the staff report including the following: 1) 12 foot wide lanes along the two roadway segments that will serve as the Circulator Road through this area, along the western portion of Patterson and all of Witherspoon; and 2) the radius of 120 foot [widening the curves shown on the section of Patterson Boulevard east of Witherspoon] to be negotiated at site plan stage. This motion was seconded by Council Member Miller.

A substitute motion was made by Council Member Blyth to approve the rezoning request with changes to the development plan as indicated in the staff report including the following 1) the curve at the section of Patterson Boulevard east of Witherspoon Drive be designed with a radius sufficient to allow for adequate and safe movement for transit and emergency vehicles while at the same time promoting ease of pedestrian movement; and 2) providing 11 foot wide lanes along the two roadway segments that will serve as the Circulator Road through this area. This motion was seconded by Council Member Engelhard.

SUBSTITUTE MOTION TO THE SUBSTITUTE by Council Member Cox seconded by Council Member McKissick to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of SC(D); MTC and placing same in and establishing same as OI-2; MTC with changes to the development plan as indicated in the staff report; including the following 1) the curve at the section of Patterson Boulevard east of Witherspoon Drive be designed with a radius sufficient to allow for adequate and safe movement for transit and emergency vehicles while at the same time promoting ease of pedestrian movement; and 2) providing 12 foot wide lanes along the two roadway segments that will serve at the Circulator Road through this area, along the west portion of Patterson and all of Witherspoon **FAILED** at 9:50 p.m. by the following vote: Ayes: Mayor Tennyson and Council Members Burnette, Cox, Jacobs, Langley and McKissick. Noes: Mayor Pro Tempore Clement and Council Members Larson, Miller, Griffin, Engelhard and Blyth. Absent: Council Member Brown.

SUBSTITUTE MOTION by Council Member Blyth seconded by Council Member Engelhard to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of SC(D); MTC and placing

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same in and establishing same as OI-2; MTC with changes to the development plan as indicated in the staff report; including the following 1) the curve at the section of Patterson Boulevard east of Witherspoon Drive be designed with a radius sufficient to allow for adequate and safe movement for transit and emergency vehicles while at the same time promoting ease of pedestrian movement; and 2) providing 11 foot wide lanes along the two roadway segments that will serve as the Circulator Road through this area, along the western portion of Patterson and all of Witherspoon was approved at 9:50 p.m. by the following vote: Ayes: Mayor Tennyson and Council Members Blyth, Burnette, Engelhard, Griffin, Jacobs, Larson, McKissick and Miller. Noes: Mayor Pro Tempore Clement and Council Members Cox and Langley. Absent: Council Member Brown.

SUBJECT: ZONING MATTER CASE 93-13, BOULEVARD PROPERTIES LIMITED PARTNERSHIP, 3701 NEW MT. MORIAH ROAD

Case: P98-13

Applicant: Boulevard Properties Limited Partnership

Location: The 19.951-acre site is located at 3701 New Mt. Moriah Road, identified as Tax Map 483, Block 1, Lot 1

Request: SC(D) (Shopping Center District with Development Plan); MTC (Major Transportation Corridor) partial to SC(D); MTC partial-Reduction in area covered by Development Plan by 5.691 acres (which will be picked up in Cases P98-14 and P98-15)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of SC(D); MTC and placing same in and establishing same as SC(D); MTC--reduction in area covered by Development Plan.

Zoning Committee's Recommendation and Vote: Approval (7-0)

City Manager's Recommendation: Approval

Note: For public hearing comments, please refer to Zoning Case P98-14.

A motion was made by Council Member McKissick to approve the rezoning with changes to the development plan as indicated in the staff report including the following: 1) 12 foot wide lanes along the two roadway segments that will serve as the Circulator Road through this area, along the western portion of Patterson and all of Witherspoon; and 2) the radius of 120 foot [widening the curves shown on the section of Patterson Boulevard east of Witherspoon] to be negotiated at site plan stage. This motion was seconded by

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Council Member Miller.

A substitute motion was made by Council Member Blyth to approve the rezoning request with changes to the development plan as indicated in the staff report; including the following 1) the curve at the section of Patterson Boulevard east of Witherspoon Drive be designed with a radius sufficient to allow for adequate and safe movement for transit and emergency vehicles while at the same time promoting ease of pedestrian movement; and 2) providing 11 foot wide lanes along the two roadway segments that will serve as the Circulator Road through this area. This motion was seconded by Council Member Engelhard.

SUBSTITUTE MOTION TO THE SUBSTITUTE by Council Member Cox seconded by Council Member McKissick to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of SC(D); MTC and placing same in and establishing same as OI-2; MTC with changes to the development plan as indicated in the staff report; including the following 1) the curve at the section of Patterson Boulevard east of Witherspoon Drive be designed with a radius sufficient to allow for adequate and safe movement for transit and emergency vehicles while at the same time promoting ease of pedestrian movement; and 2) providing 12 foot wide lanes along the two roadway segments that will serve at the Circulator Road through this area, along the west portion of Patterson and all of Witherspoon **FAILED** at 9:50 p.m. by the following vote: Ayes: Mayor Tennyson and Council Members Burnette, Cox, Jacobs, Langley and McKissick. Noes: Mayor Pro Tempore Clement and Council Members Larson, Miller, Griffin, Engelhard and Blyth. Absent: Council Member Brown.

SUBSTITUTE MOTION by Council Member Blyth seconded by Council Member Engelhard to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of SC(D); MTC and placing same in and establishing same as OI-2; MTC with changes to the development plan as indicated in the staff report; including the following 1) the curve at the section of Patterson Boulevard east of Witherspoon Drive be designed with a radius sufficient to allow for adequate and safe movement for transit and emergency vehicles while at the same time promoting ease of pedestrian movement; and 2) providing 11 foot wide lanes along the two roadway segments that will serve as the Circulator Road through this area, along the western portion of Patterson and all of Witherspoon was approved at 9:50 p.m. by the following vote: Ayes: Mayor Tennyson and Council Members Blyth, Burnette, Engelhard, Griffin, Jacobs, Larson, McKissick and Miller. Noes: Mayor Pro Tempore

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Clement and Council Members Cox and Langley. Absent: Council Member Brown.

**SUBJECT: ZONING MATTER CASE P98-41, CENTRAL MEDICAL PARK II, LLC,
EAST SIDE OF BROAD STREET SOUTH OF ELLERBEE CREEK AND
NORTH OF MURRAY AVENUE**

Case: P98-41

Applicant: Central Medical Park II, LLC

Location: The .45-acre site is located on the east side of Broad Street south of Ellerbee Creek and north of Murray Avenue, identified as Tax Map 326, Block 2, Lot 1 (partial)

Request: Rezoning from R-8 (Residential 8 District); F/J-B (Falls-Jordan Protected Basin) to OI-1 (General Office and Institutional District); F/J-B

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-8; J/J-B and placing same in and establishing same as OI-1; F/J-B.

Zoning Committee's Recommendation and Vote: Approval (7-0)

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Charlie Steele, representing Central Medical Park, spoke in support of this item.

No one spoke in opposition. The Mayor closed the public hearing.

MOTION by Council Member Larson seconded by Council Member Miller to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-8; J/J-B and placing same in and establishing same as OI-1; F/J-B was approved at 9:52 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Brown.

**SUBJECT: ZONING MATTER CASE P98-42, CENTRAL MEDICAL PARK II, LLC,
EAST SIDE OF BROAD STREET SOUTH OF ELLERBEE CREEK**

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Case: P98-42

Applicant: Central Medical Park II, LLC

Location: The 7.104-acre site is located on the east side of Broad Street south of Ellerbee Creek and north of Murray Avenue, identified as Tax Map 326, Block 2, Lots 1 (partial) and 2A (partial)

Request: Rezoning from R-8 (Residential 8 District); F/J-B (Falls-Jordan Protected Basin) to OI-2 (General Office and Institutional District); F/J-B

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-8; F/J-B and placing same in and establishing same as OI-2; F/J-B.

Zoning Committee's Recommendation and Vote: Approval (7-0)

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Larson seconded by Council Member Miller to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-8; F/J-B and placing same in and establishing same as OI-2; F/J-B was approved at 9:52 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Brown.

SUBJECT: ZONING MATTER CASE P98-44, JOHN ADAMS, SOUTHEAST CORNER OF THE INTERSECTION OF NORTH BEND DRIVE AND MERIDIAN PARKWAY

Case: P98-44

Applicant: John McAdams

Location: The 10.2-acre site is located on the southeast corner of the intersection of North Bend Drive and Meridian Parkway, identified as Tax Map 547-1-17A, Tax Map 548-1-5 partial, and Tax Map 550-4-1 through 4

Request: Rezoning from RM-8 (Multifamily Residential District, maximum of 8 dwelling units per acre) and OI-2 (General Office and Institutional District); MTC (Major Transportation Corridor) to OI-2(D) (General Office and Institutional District with a Development Plan) and R-10 (Residential 10 District); MTC

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above

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described property out of RM-8, OI-2; MTC and placing same in and establishing same as OI-2(D), R-10; MTC

Zoning Committee's Recommendation and Vote: Approval (7-0)

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member McKissick seconded by Council Member Miller to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of RM-8, OI-2; MTC and placing same in and establishing same as OI-2(D), R-10; MTC was approved at 9:53 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Brown.

SUBJECT: ZONING MATTER CASE P98-45, VILLAGE PARTNERS SOUTH SIDE OF PAGE ROAD BETWEEN LUMLEY ROAD AND ANGIER AVENUE

Case: P98-45

Applicant: Village Partners

Location: The .125-acre site is located on the south side of Page Road between Lumley Road and Angier Avenue, identified as Tax Map 649, Block 1, Lot 9 (partial)

Request: Rezoning from RD (Rural District) to R-10 (Residential 10 District)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of RD and placing same in and establishing same as R-10.

Zoning Committee's Recommendation and Vote: Approval (7-0)

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Larson seconded by Council Member Miller to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above

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described property out of RD and placing same in and establishing same as R-10 was approved at 9:53 p.m. by the following vote:
Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: Council Member Brown.

[OTHER MATTERS]

SUBJECT: REPORT FROM THE TAXICAB COMMISSION - SEPTEMBER 23, 1998 MEETING

To receive a report from the Taxicab Commission and to take action on the following recommendations of the Taxicab Commission--pursuant to Section 22.159.10 of the Durham City Code:

a. Revocation of Taxicab Driver's Permit - Augustus Herndon

Taxicab Inspector's Recommendation: Revoke Taxicab Driver's Permit (in accordance with City Code)

Taxicab Commission's Recommendation: Allow Augustus Herndon to retain his Taxicab Driver's Permit with a one-year probationary period. (Vote 3-0)

MOTION by Mayor Pro Tempore Clement seconded by Council Member Larson to amend the Taxicab Commission's recommendation [to allow Augustus Herndon to retain his taxicab driver's permit with a three-year probationary period] and during this time, no infractions; misdemeanors; felonies and/or any other anti-social behavior will be committed by Mr. Herndon during this three-year period; and if Mr. Herndon commits any of the above-mentioned he shall be brought before the Taxicab Commission to have the probationary period stopped was approved at 9:58 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Griffin, Jacobs, Langley, Larson and McKissick. Noes: Council Members Miller and Engelhard. Absent: Council Member Brown.

b. Denial of Taxicab Driver's Permit - Tamba Tandanpolie

Taxicab Inspector's Recommendation: Deny Taxicab Driver's Permit (in accordance with City Code)

Taxicab Commission's Recommendation: Issue Tamba Tandanpolie a Taxicab Driver's Permit. (Vote 3-0)

MOTION by Mayor Pro Tempore Clement seconded by Council Member Langley to approve the Taxicab Commission's recommendation [issue Tamba Tandanpolie a Taxicab Driver's permit] was approved at 9:59

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p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley and McKissick. Noes: Council Members Larson and Miller. Absent: Council Member Brown.

SUBJECT: RECOMMENDED CHANGES TO CITY COUNCIL PROCEDURES

To receive a report from the City Council Procedures Subcommittee and to approve the recommended changes.

Note: At the Committee-of-the-Whole Meeting on Thursday, October 15, 1998, the City Council voted to continue this item until the October 29, 1998 Committee-of-the-Whole Meeting.

There being no further business to come before the Council, the meeting was adjourned at 9:59 p.m.

D. Ann Gray
Deputy City Clerk

Margaret M. Bowers, CMC
City Clerk